

**APPEALS COURT FAVORS CIA  
IN MARCHETTI RULING**

A panel of judges for the U. S. Appeals Court, headed up by Supreme Court reject Clement F. Haynsworth, has upheld a lower court ruling restraining former CIA agent Victor Marchetti from publishing books or articles about that agency without prior authorization from the Director of Central Intelligence or a designated representative. The government first took action against Marchetti when it moved to block an article he had submitted to *Esquire* magazine last March. Its contention was that the article contained classified information concerning intelligence sources, methods, and operations.

The CIA had obtained from the U. S. District Court for the Eastern District of Virginia a permanent injunction stipulating agency consent prior to publication (*LJ*, July p. 2326). At issue here is a nonfiction book on the agency Marchetti plans to write for publisher Alfred A. Knopf, Inc. The author, who was employed by the CIA for 14 years, has already had published a novel and two articles, all of them critical of the agency and of its subservience to the wishes of the President.

The CIA contends that Marchetti is bound by a secrecy agreement he signed when first employed by the agency and that this agreement is not in violation of his First Amendment rights. The defense, which has the backing of the Association of American Publishers, has argued that the prior restraint violated Marchetti's rights and that it also runs counter to the public's right to know and be informed as established by the First Amendment. Moreover, it contends that the decision is in direct conflict with the recent Supreme Court ruling permitting publication of the *Pentagon Papers*. In a similar action against a publisher, the CIA put the heat on Harper & Row: first by demanding to see galleys of Alfred McCoy's *The Politics of Heroin in Southeast Asia* and then by issuing a critique of it, charging that McCoy had falsely accused the agency of drug trafficking. In this case, however, the CIA backed off from any court action, and Harper proceeded with publication (*LJ*, September 15, p. 2792-94).

The three judges on the Court of Appeals panel unanimously ruled in favor of the government agency in the Marchetti case. The court added, however, that the author could seek judicial review of any CIA disapproval of a manuscript for publication. It further stipulated that the CIA must act promptly to approve or disapprove any material submitted to it. Undue delay, said the panel, would impair the reasonableness of the restraint, and that reasonableness is to be maintained if the restraint is to be enforced. Marchetti's lawyer, Melvin L. Wulf of the American Civil Liberties Union, has announced that he will take the case to the Supreme Court.

Victor Marchetti,  
Victor

P-McCoy, Alfred

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of Heroin in  
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